

AMENDED PRELIMINARY SITE DEVELOPMENT AND USE PLAN

For the CD, Planned Commercial District Number 9 (“CD-9 District” or “Planned Commercial District”)

At 45, 55 and 65 HAYDEN AVENUE, LEXINGTON, MASSACHUSETTS (“Premises”)

Article 3

Special Town Meeting

November 2009

Submitted July 31, 2009

Revised to October 30, 2009

This Amended Preliminary Site Development and Use Plan (“APSDUP”) is prepared under the provisions of Article III, § 135-14 and Article VIII, § 135-42, of the Zoning Bylaw, Chapter 135 of the Code of the Town of Lexington which incorporates Amendments through September 2009 (“2009 Zoning By-Law”).

Conditions on Transfer: Any sale or transfer of rights or interests in the property in this Planned Commercial District shall include a condition that successors and assigns are bound to the terms and conditions of this APSDUP and of any Special Permit with Site Plan Review (SPS) or other Special Permit granted by the Special Permit Granting Authority for this Planned Commercial District.

This APSDUP supplements, amends and restates the original Preliminary Site Development and Use Plan approved by Town meeting in the Fall of 1997 (“Original PSDUP”). Compliance of structures whether existing or hereafter constructed along with the uses conducted therein and the dimensional requirements governing the premises shall be solely based upon the terms and conditions of this APSDUP unless otherwise specified herein.

This APSDUP is divided into the following sections:

GENERAL. This section includes general information about the site and identifies the plans, exhibits and documents submitted herewith.

PERMITTED USES. This section describes uses that are permitted within the Planned Commercial District either by right or with the grant of a special permit.

DIMENSIONAL STANDARDS. This section describes the maximum allowed dimensional standards that would govern construction in the Planned Commercial District.

Amended Preliminary Site Development and Use Plan
For CD district at 45, 55 and 65 Hayden Avenue, Lexington, MA

DEFINITIONS. This section provides definitions for dimensional requirements and uses that would govern the construction and development in the Planned Commercial District.

OTHER ZONING PROVISIONS. This section describes other zoning provisions that would be applicable in the proposed Planned Commercial District, including requirements related to landscaping, transition and screening, off-street parking and loading, traffic, signs and lighting and illumination.

TABLE OF DEVELOPMENT DATA. This section sets forth the table of development data for the conceptual layout of the Planned Commercial District. The final project layout is subject to the Dimensional Standards identified in Section II below.

SPECIAL CONDITIONS. This section sets forth the proposed special conditions that would apply within the Planned Commercial District.

I. GENERAL

Permitted Uses: The principal and accessory uses permitted within the CD-9 District are specified within attached **Appendix A.**

Location and Boundaries: The property which is included in this Planned Commercial District has its frontage on Hayden Avenue and is commonly known as the 45, 55 and 65 Hayden Avenue property. Herein the lot known as 45-55 Hayden Avenue is referred to as “Area A” and the lot known as 65 Hayden Avenue is referred to as “Area B”. Area A and Area B are shown on the Plans, defined below. The metes and bounds description of the boundaries of the area within this existing CD-9 District are attached as **Appendix B.**

Plans, Exhibits and Documents: Certain plans, exhibits and other documents are submitted with and made a part of this APSDUP and are attached as **Appendix C.**

The following Plans which have been prepared for this CD-9 District by Cubellis and are entitled as follows:

<u>Sheet No.</u>	<u>Title</u>	<u>Most Recent Date</u>
C1	Title Sheet	10/6/2009
C2	Site Analysis Plan	10/6/2009
C3	Locus Context Plan	10/6/2009
C4	Property Rights & Dimensional Standards Plan	10/6/2009
C5	Site Construction and Utilities Plan	10/6/2009
C6	Landscaping Planting Plan	10/6/2009

Visual Representation Scale and Massing.

Plans depicting conceptual architectural design for 65 Hayden Avenue (Area B denoted on the Plans) have been prepared by Olson Lewis Dioli & Doktor and are attached as **Appendix D**. Said plans are entitled as follows:

Conceptual Aerial View entitled “Cubist Pharmaceuticals, Inc., Conceptual Aerial View including proposed addition to 65 Hayden Avenue,” dated October 2, 2009, prepared by Olson Lewis Dioli & Doktor

Conceptual Entry View entitled “Cubist Pharmaceuticals, Inc., Conceptual Entry View including proposed addition to 65 Hayden Avenue,” dated October 2, 2009, prepared by Olson Lewis Dioli & Doktor

Wetlands Certificate.

A Wetlands Certificate providing a current certification of the total wetlands area on Area B is attached in **Appendix E**.

Miscellaneous.

In recognition of the intent and purpose of Article VIII, §135-42 of the 2009 Zoning By-Law which is to permit considerable flexibility in the development of individual tracts of land, in the event of: (a) any conflict between these zoning provisions and the 2009 Zoning By-Law or any other by-law or regulation of the Town; or (b) ambiguity under these zoning provision, such conflict or ambiguity shall be resolved or construed in a manner consistent with and to permit satisfaction of the zoning and development intent described in the Amended PSDUP.

II. DIMENSIONAL STANDARDS.

The following special dimensional standards, which in certain categories are less restrictive than those provided for in the CRO Regional Office zoning district, shall solely apply in this Planned Commercial District. Additionally, in this CD-9 District any single lot may exceed the maximum Floor Area Ratio or Site Coverage so long as all of the lots in the aggregate do not exceed the maximum Floor Area Ratio or Site Coverage as set forth in the table below.

Minimum Lot Area	5 Acres
Minimum Lot Frontage	300 Feet
Minimum Front Yard Setback	100 Feet
Minimum Side Yard Setback	50 Feet (There shall be no side yard setback from any internal lot line for structures located within the CD-9 District)

Amended Preliminary Site Development and Use Plan
For CD district at 45, 55 and 65 Hayden Avenue, Lexington, MA

Minimum Rear Yard Setback	50 Feet
Minimum Side and Rear Yard Facing Residential District	N/A
Maximum Site Coverage	25%
Floor Area Ratio (FAR)	.26
Building Height (45/55 Hayden Avenue)	Occupied Building: 45 Feet (including existing structured parking underneath building)
Building Height (65 Hayden Avenue)	Occupied Building: 60 Feet Parking Garage/Structure: 70 Feet

III. DEFINITIONS

The Definitions within the 2009 Zoning Bylaw shall be applicable to the Premises, with the exception of the following:

Net Floor Area shall be amended to add thereto a subsection G. which shall read as follows:

“G. Unoccupied space areas for storage of materials related to permitted site uses”.

In addition, the following shall be added to the end of the definition of Net Floor Area to reflect the practice of the Town in calculating Net Floor Area:

“or

Alternatively, the calculation of Net Floor Area shall be 80% of the Gross Floor Area excluding the Gross Floor Area of structured parking.”

IV. OTHER ZONING PROVISIONS.

Maximum Height of Buildings -

The maximum height of buildings and structures shall be determined in accordance with Article VII §135-39 of the 2009 Zoning Bylaw, with the exception of the following:

Structures erected on a building and not used for human occupancy, such as but not limited to air and exhaust equipment, chimneys, heating-ventilating or air-conditioning equipment, solar or photovoltaic panels, elevator housings, antennas, skylights, cupolas, spires, mechanical and acoustical screening and the like (“rooftop structures”), may exceed the maximum height of a building in feet provided, except as otherwise stated below, no part of the rooftop structure(s) is more than twenty five (25) feet higher than the maximum

permitted height of the building and the total horizontal coverage of such rooftop structures on the building does not exceed sixty (60) percent of the total roof area. Notwithstanding the foregoing: (a) an aggregate area not to exceed three (3) percent of the total roof area may contain rooftop structures that extend up to thirty five (35) feet above the roof line (these structures shall be included in the calculation of the horizontal coverage limit set forth above), and (b) none of the aforementioned rooftop structures may exceed 10' above the roof line on a parking garage structure.

The Board of Appeals may grant a special permit to exceed the maximum height in feet or the percentage of horizontal coverage of structures erected on a building allowed by Section II Dimensional Standards or these APSDUP provisions provided it makes a determination that the structure is compatible with the scale of the neighborhood and does not negatively impact the solar access of any adjoining lot.

Effect of the creation of parcels or lots within the Planned Commercial District

- The land within this CD-9 District may be legally subdivided into separate parcels or lots, for example, for purposes of financing or conveying interests, but any successors shall be bound by the provisions and controls in this APSDUP, which shall remain in effect with respect to each such parcel or lot, unless amended by vote of Town Meeting. The dimensional standards and other zoning provisions as prescribed herein shall remain in effect where the boundaries of this Planned Commercial District adjoin other zoning districts, while the standards and provisions that apply within, but not on the perimeter of the district shall be modified as set forth below.
- As noted above, in this CD-9 District any single lot may exceed the maximum Dimensional Standards so long as all of the lots in the aggregate District do not exceed the maximum Dimensional Standards identified in Section II.
- The instrument of conveyance effecting any sale or transfer of rights or interests in any lot in the district shall include a specific allocation of a maximum of 194,603 s.f. of gross floor area for Area A and 360,000 s.f. of gross floor area for Area B.
- There shall be no required setback from the side and rear lot lines in this Planned Commercial District for the paved parts of parking spaces, driveways or maneuvering aisles, and these features may extend up to the side and rear lot lines, except that parking spaces along a lot line that coincides with the perimeter of the district (as opposed to spaces along a lot line that is in the interior of the district) shall be required to comply with the ten-foot setback from a lot line.
- In the event that any lot in this Planned Commercial District is subdivided:
 - (a) parking spaces existing within this CD-9 District as of the filing of this APSDUP which may be required for one lot, may be located on a separate

Amended Preliminary Site Development and Use Plan
For CD district at 45, 55 and 65 Hayden Avenue, Lexington, MA

lot, which may be in separate ownership, notwithstanding any regulations or provisions to the contrary stated in the Zoning By-Law, so long as:

- 1) all such spaces are for employees only and not clientele unless specifically designated with appropriate signage; and,
 - 2) where such lot is not in the same ownership, a lease or easement guaranteeing long-term use of such spaces, and satisfactory in form to the Town Counsel, is executed and filed in the Middlesex South Registry of Deeds; and
- (b) a driveway on one lot may lead to a parking space or loading bay on another lot, or straddle the lot line and serve a parking space or loading bay on two or more lots, notwithstanding any regulations or provisions to the contrary stated in the Zoning By-Law, so long as a binding agreement between the applicable property owners, satisfactory in form to the Town Counsel, is executed and filed in the Middlesex South Registry of Deeds.

Landscaping: Landscaping, transition areas and screening in this Planned Commercial District shall be provided as follows:

Landscaping of the site, transitional areas and screening in this Planned Commercial District will be provided in general as shown on Sheet C6 of the Plans, prepared by Cubellis, dated October 6, 2009 and will be consistent with the existing landscaping on the site. The definitive site development and use plan to be presented to the Special Permit Granting Authority will provide greater detail of said landscaping. The developer of 65 Hayden Avenue shall, to the extent practical incorporate into any definitive site development and use plan supplemental landscape design elements which are designed to enhance the existing visual buffer of the Area B Improvements.

Off-Street Parking and Loading: Design of parking lots and loading bays, calculation of required off-street parking spaces and calculation of required loading bays in this Planned Commercial District shall be provided in compliance with Article XI, § 135-64 and § 135-65 of the 2009 Zoning Bylaws, with the exception of the following requirements:

TYPE OF USE	PARKING FACTOR (<i>minimum number of parking spaces to be provided</i>)
INSTITUTIONAL, EDUCATIONAL & RECREATIONAL USES	
College, technical school	As Needed

Amended Preliminary Site Development and Use Plan
For CD district at 45, 55 and 65 Hayden Avenue, Lexington, MA

TYPE OF USE	PARKING FACTOR <i>(minimum number of parking spaces to be provided)</i>
Day-care center, school age child care program, nursery school, kindergarten	1 per 500 s.f.
Lodge, community service center	1 per each 6 seats in the largest assembly area
Gymnasium, stadium, field house	1 per each 6 seats
Parks, athletic fields, tennis and pool facilities, golf courses, recreation centers, other institutional uses	As Needed
OFFICE USES	
All permitted Office uses (except as otherwise classified)	1 per 333 s.f.
Medical office, out-patient clinic	1 per 200 s.f.
PERSONAL BUSINESS USE	
Personal services, bank, business services, retail sales, and rental uses	1 per 250 s.f.
MANUFACTURING, RESEARCH USES	
Manufacturing, research laboratory	1 per 500 s.f.
Construction, storage, distribution and industrial service users	1 per 1,000 s.f.
All other permitted uses	As needed, usually 1 per employee

- The minimum total number of loading bays within the CD-9 District shall be provided in accordance with Section V of this APSDUP.
- Shared Parking Spaces - Parking for all uses (both existing and proposed) within the CD-9 District shall be permitted to be located in common parking lots as of right subject to the recording of any necessary easements with the Middlesex South County Registry of Deeds.

Amended Preliminary Site Development and Use Plan
For CD district at 45, 55 and 65 Hayden Avenue, Lexington, MA

- **Reserve Spaces** – The Developer may petition the SPGA as part of any definitive site development and use plan for a determination that the use(s) within the Premises can be accommodated with a parking ratio which is less than the minimum as required above. As part of this petition, the Developer shall be required to identify on said definitive site development and use plan the ability to fully construct the minimum number of required spaces per the ratios above, the legal right to use such spaces, and shall further identify those spaces being held in “reserve” for construction at a future date. Reserve Spaces may include future spaces to be constructed in a parking garage or surface parking in accordance with a definitive site development and use plan decision issued by the SPGA.

Signs: Signs are permitted in this Planned Commercial District in compliance with Article XIII, § 135-77 Business Districts of the 2009 Zoning By-Law, with the following exceptions:

Any wall sign, free standing sign or other legally permitted sign presently in existence on the Premises as of the submission date of this CD-9 District Amendment (October 2009) may be retained and relocated within the Premises, so long as it is not enlarged unless permitted by the 2009 Zoning By-laws.

Exterior Display: No exterior display of products will be allowed in this Planned Commercial District.

Illumination: Outdoor lighting design shall comply with the provisions of Article XIV, § 135-79 of the 2009 Zoning By-Law.

Special Permit Granting Authority: The SPGA in this Planned Commercial District shall be governed by the provisions of Article III, § 135-12 and Article VIII, § 135-42 B (4) of the 2009 Zoning By-Law.

V. TABLE OF DEVELOPMENT DATA.

The Development Data below is provided for the aggregate CD-9 District (45, 55 and 65 Hayden Avenue). The maximum development capacity for this CD-9 District is as prescribed in Section II Dimensional Standards.

A. Total land area:	1,628,227 s.f.
B. Area of vegetated wetland:	438,209 s.f.
C. Developable site area:	1,190,018 s.f.
D. Site Coverage of Buildings	8.9%
E. Total proposed impervious surface area:	444,124

Amended Preliminary Site Development and Use Plan
For CD district at 45, 55 and 65 Hayden Avenue, Lexington, MA

F. Proposed total gross floor area:	(a) 375,603 s.f. Occupied Building <u>(b) 179,000 s.f. Garage Space</u> Total 554,603 s.f.
G. Proposed net floor area:	300,483 s.f.
H. Floor area ratio:	0.26
I. Total number of off-street and garage spaces:	922
J. Number of loading bays:	4

In accordance with the provisions of this APSDUP and Section II Dimensional Standards, any remaining square footage which can be constructed within the CD-9 District shall be permitted to be constructed in Area B (65 Hayden Avenue) only and shall be constructed in accordance with the restrictions and limitations prescribed within this APSDUP (“Area B Improvements”). Notwithstanding anything to the contrary contained herein, no additional square feet of gross floor area authorized pursuant to this APSDUP may be developed on Area A (45-55 Hayden Avenue).

VI. SPECIAL CONDITIONS.

The following special conditions shall apply in this CD-9 District, Planned Commercial District. The following is an outline of special conditions. The full text of provision Section VI. C. noted below is set forth in Appendix F to this APSDUP, as indicated below. Any cost or expense related to required mitigation related to Area B improvements shall be the sole and exclusive obligation of the owner of Area B (“Area B Special Mitigation”)

A. Conservation Measures

An annual contribution (in materials, services or cash) equal to \$5,000 shall be made jointly and severally by the fee owners of the properties in the CD-9 District, Planned Commercial District to the Conservation Commission for maintenance and upkeep of the Hayden Woods Conservation Area, as directed by the Conservation Commission.

B. Gross Floor Area of Proposed Addition

The gross floor area of the Area B Improvements shall not exceed 204,000 square feet of occupied building area and 156,000 square feet of structured parking garage space. The maximum net floor area of the proposed occupied building space shall not exceed 163,200 square feet.

C. Traffic Mitigation and Traffic Demand Management

The developer of Area B shall, as a condition of receiving a certificate of occupancy for the Area B Improvements, provide for the traffic mitigation and traffic demand management measures as described in Appendix F. These measures are intended to supplement the Traffic Mitigation and Traffic Demand Management Plan adopted as part of the Original PSDUP which shall remain in effect and shall be jointly and severally binding upon the owner(s) of the parcels comprising the CD-9 District except as specifically provided otherwise herein, and these original obligations are annexed hereto as Appendix F-1 and F-2. Additionally, certain obligations related to the development of Area B are memorialized in a Memorandum of Understanding, dated October __, 2009, as described in Appendix G, and the terms and conditions of said Memorandum of Understanding are incorporated by reference herein and made a part hereof. The mitigating measures concerning traffic described in Appendix F and Appendix G of this APSDUP address the requirements of Article XII, § 135-71 thru § 135-73 of the 2009 Zoning Bylaw. The existing or proposed design, dimensions, configuration, length and other aspects of all internal roadways and drives shown on the APSDUP and ultimately approved by the SPGA at the time of any definitive site development and use plan shall supersede all other requirements of the 2009 Zoning By-Law.

D. Sustainable Design and Construction

The additional floor area (beyond that authorized in the original PSDUP) permitted pursuant to this APSDUP shall be constructed using, as a guideline, the “Silver Standard” of The Leadership in Energy and Environmental Design (LEED) Green Building System in effect as of the effective date of this amendment, to the extent commercially reasonable and to the extent that clear LEED standards for a given use or building type have been issued, and subject in all instances to the requirements and limitations of any tenants. The applicant shall provide the Zoning Enforcement Officer with evidence of compliance with this commitment which shall include certification from the applicant’s consultants.

Amended Preliminary Site Development and Use Plan
For CD district at 45, 55 and 65 Hayden Avenue, Lexington, MA

List of Appendices

- Appendix A Permitted Uses
- Appendix B Metes and Bounds description of CD-9 District
- Appendix C Plans
- Appendix D Visual Representation Scale and Massing Plans
- Appendix E Draft Wetlands Certificate
- Appendix F Traffic Mitigation and Site Transportation Demand Management Plan
- Appendix F-1 Appendix D to Original PSDUP
- Appendix F-2 Appendix E to Original PSDUP
- Appendix G Memorandum of Understanding dated October __, 2009